

REMARKS

I. Status of Claims

Prior to this Amendment, claims 1-16, 18, 19, and 22-53 were pending and claims 2, 3, 16, 18, 19, 22, and 36-53 were under examination. In the Final Office Action dated August 24, 2006, the Examiner maintained the rejection of claims 2, 3, 16, 18, 22, and 36-53. Applicant respectfully traverses. By this Amendment, Applicant only amends claims 3. Claims 1-16, 18, 19, and 22-53 remain pending and claims 2, 3, 16, 18, 19, 22, and 36-53 are under examination.

II. Amendment of Claim 3

In order to place at least claim 3 in condition for allowance and to place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims, Applicant amends only claim 3 so that it is now in independent form.

Applicant notes that in the Final Office Action dated August 24, 2006, the Office observed that claim 3 is drawn to a protein having SEQ ID NO:2. Office Action at 3. Despite stating that the written description sets forth SEQ ID NO:2, the Office rejected claim 3, as allegedly failing to comply with the written description requirement under 35 U.S.C. § 112, first paragraph. *Id.* at 3, 5. Applicant respectfully asserts that in the very least claim 3 meets the written description requirement.

In addition, in the Final Office Action, the Office maintained its rejection of claim 3 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. *Id.* at 10. Responding to Applicant's previous arguments, the Office stated: "Applicants assert that the amendment to claim 3 [removing language relating to functional variant and percent identity] obviates the rejection. However the

rejection now applies to claim 46.” *Id.* at 12. Applicant understands the Office’s statement to imply that claim 46 is rejected allegedly because the language deleted from claim 3 relating to functional variant and percent identity was included in claim 46. Since this language no longer appears in claim 3, Applicant respectfully asserts that in the very least claim 3 meets the enablement requirement. Applicant respectfully requests that the Office withdraw its rejections, including its rejections pertaining to claim 3.

III. Conclusion

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing at least claim 3 in condition for allowance. Applicant submits that the proposed amendment of claim 3 does not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Finally, Applicant submits that the entry of the Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

Applicant, therefore, requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge
any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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